

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

DECISION AND ORDER  
09-CR-371

LUIS ANGEL LEBRON ACEVEDO,  
JOSE NUNEZ,

Defendants.

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This case was referred to Magistrate Judge Jeremiah J. McCarthy for supervision of all pretrial proceedings. On February 26, 2010 Defendant Jose Nunez filed a motion seeking suppression of statements made and evidence seized on January 6, 2009, the date of his arrest. An evidentiary hearing was held before Magistrate Judge McCarthy on June 6 and July 7, 2011. The parties then had an opportunity to file post-hearing briefs.

On February 9, 2012, Magistrate Judge McCarthy issued a Report and Recommendation recommending that Defendant's suppression motion be denied in its entirety. On March 28, 2012, Defendant submitted objections to the Magistrate Judge's Report and Recommendation. The Government filed a response to Defendant's objections on April 26, 2012 and Defendant Nunez filed a reply on October 12, 2012. Oral argument was held before this Court on November 5, 2012.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review and after reviewing the submissions of the parties and hearing oral argument, the Court adopts the proposed findings of the Report and Recommendation.<sup>1</sup>

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, Defendant's motion to suppress statements made and evidence seized on January 6, 2009 is denied in all respects. The parties shall appear before this Court on November 29, 2012 at 9:00 am for a status conference and/or meeting to set trial date.

SO ORDERED.

*s/ Richard J. Arcara*

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: November 28, 2012

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<sup>1</sup>In his objections dated March 28, 2012, Defendant Nunez asks this Court to review Magistrate Judge McCarthy's February 9, 2012 Decision and Order which, *inter alia*, denied Defendant's motion for a bill of particulars. Defendant Nunez's request for review of Judge McCarthy's February 9, 2012 Decision and Order is not properly before this Court pursuant to 28 U.S.C. §636 *et seq.* and therefore will not be considered.